

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

LIA SMITH-HUTCHINSON, *et al.*,

Plaintiffs,

Case No. 3:13-CV-192

vs.

ITS FINANCIAL LLC, *et al.*,

Magistrate Judge Michael J. Newman
(Consent Case)

Defendants.

ORDER

On August 13, 2013, Defendants filed a motion to dismiss (doc. 22) and a motion for summary judgment (doc. 23). On September 3, 2013, Plaintiffs filed a motion to amend their complaint (doc. 25) pursuant to Fed. R. Civ. P. 15(a)(1)(B). Plaintiffs subsequently filed their amended complaint (doc. 26) on September 3, 2013. Defendants then filed their second motion to dismiss (doc. 29) and second motion for summary judgment (doc. 30) on September 17, 2013. Plaintiffs failed to timely respond to Defendants' two dispositive motions. The Court issued an Order to Show Cause on October 18, 2013, directing Plaintiffs to show cause on or before October 30, 2013 why Defendants' motions should not be granted. Doc. 35.

On October 21, 2013, Plaintiffs filed a motion for leave, seeking leave to file a memorandum in opposition in excess of twenty pages, and attached a proposed memorandum in opposition to Defendants' motion to dismiss. Doc. 36. The Court denied this motion without prejudice on October 24, 2013 for failure to comply with Local Rule 7.2(a)(3). Doc. 37. Plaintiffs then filed an unopposed motion for an extension of time to file their memorandum in opposition to Defendants' motion for summary judgment on October 25, 2013, seeking to extend

the deadline to November 15, 2013. Doc. 38. Thereafter, on October 28, 2013, Plaintiffs filed a second motion for leave to file a memorandum in opposition to Defendants' motion to dismiss in excess of twenty pages and attached a second proposed memorandum in opposition to Defendants' motion to dismiss. Doc. 39.

Plaintiffs may amend their complaint as a matter of course because this is Plaintiffs' first amendment and the amended complaint was filed within twenty-one days of service of Defendants' motions. *See* Fed. R. Civ. P. 15(a)(1)(B). Accordingly, Plaintiffs' motion to amend their complaint (doc. 25) is hereby **GRANTED**. Defendants' motion to dismiss (doc. 22) and motion for summary judgment (doc. 23) -- directed to Plaintiffs' initial complaint -- are therefore **DENIED AS MOOT**. Plaintiffs' unopposed motion for extension of time (doc. 38) is **GRANTED**. Accordingly, Plaintiffs shall file their memorandum in opposition to Defendants' motion for summary judgment on or before **November 15, 2013**. Plaintiffs' motion for leave (doc. 39) is **GRANTED**. The Clerk of Courts is hereby **ORDERED** to docket Plaintiffs' memorandum in opposition to Defendants' motion to dismiss, which is attached to Plaintiffs' motion for leave as Exhibit 1. Doc. 39-1. In light of Plaintiffs' recent filings, the Court deems the terms of the pending Order to Show Cause (doc. 35) **SATISFIED**, and the Order is hereby **RESCINDED**.

IT IS SO ORDERED.

October 29, 2013

s/ **Michael J. Newman**
United States Magistrate Judge